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MINISTRY OF LAW

(Legislative Department)

New Delhi, the 21st September, 1960/*Bhadra* 30, 1882 (*Saka*)

The following Act of Parliament received the assent of the President on the 20th September, 1960, and is hereby published for general information:—

THE DELHI PRIMARY EDUCATION ACT, 1960

No. 39 OF 1960

[*20th September,* 1960]

An Act to provide for free and compulsory Primary education for children in the Union territory of Delhi.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Delhi Primary Education Act, 1960.

(*2*) It extends to the Union territory of Delhi.

(*3*) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "academic year" means the year beginning on such date as a local authority may specify with respect to any specified area or with respect to approved schools generally or any approved school or class of approved schools in particular within its jurisdiction;

(*b*) "approved school" means any school in any specified area within the jurisdiction of a local authority imparting primary education which—

(*i*) is under the management of the State Government or the local authority, or

(*ii*) being under any other management, is recognised by the local authority as an approved school for the purposes of this Act;

(*c*) "attendance authority" means any person appointed to be an attendance authority under section 7;

(*d*) "to attend an approved school" means to be present for instruction at an approved school on so many days in a year and at such time or times on each one of those days as may be fixed by the local authority concerned;

(*e*) "child" means a boy or girl within such age group, not being less than six or more than fourteen, as may be specified in a declaration made under section 4;

(*f*) "local authority" means the Municipal Corporation of Delhi, the New Delhi Municipal Committee and the Delhi Cantonment Board;

(*g*) "parent", in relation to any child, includes a guardian and every person who has the actual custody of the child;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "primary education" means education up to such class or standard, not beyond the eighth class or standard, as may be prescribed;

(*j*) "rural areas" shall have the meaning assigned to it in section 2 of the Delhi Municipal Corporation Act, 1957; 66 of 1957.

(*k*) "special school" means any institution which imparts such primary education as is in the opinion of the State Government suitable for children suffering from any physical or mental defect;

(*l*) "specified area" means any area within the jurisdiction of a local authority in which primary education is declared by that authority to be compulsory under section 4.

Schemes for primary education.

3. (*1*) It shall be the duty of every local authority to provide for compulsory primary education for children ordinarily resident within its jurisdiction, and for this purpose it shall, from time to time, submit to the State Government such proposals in the form of a scheme

as it may think fit providing for such compulsory primary education in the whole or any part of the area within its jurisdiction for children of such ages and up to such class or standard as it may decide.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, at any time, call upon a local authority to submit to it within such time as may be specified a scheme for compulsory primary education in such area within the jurisdiction of the local authority for children ordinarily resident therein, and of such ages and up to such class or standard, as the State Government may specify.

(3) The scheme submitted under sub-section (1) or sub-section (2) shall be in such form as the State Government may specify and shall contain the following particulars,—

(a) the area in which primary education shall be compulsory;

(b) the approximate number of children to whom the scheme will apply, classified according to age and mother-tongue;

(c) a list of existing approved schools and the schools, if any, proposed to be opened for the purpose, classified by languages in which instruction is given or is proposed to be given;

(d) the number of teachers already employed and the additional staff proposed to be recruited;

(e) the recurring and non-recurring cost of the scheme; and

(f) such other particulars as may be prescribed.

(4) The State Government may, after making such inquiry as it may consider necessary, sanction with or without modifications the scheme submitted by the local authority under sub-section (1) or sub-section (2).

Primary education to be compulsory in areas covered by schemes.

4. (1) On receipt of sanction under sub-section (4) of section 3, the local authority shall give effect to the scheme so sanctioned by means of a declaration that with effect from the first day of the next academic year primary education shall be compulsory in any area specified in the declaration for children ordinarily resident in that area and within such age group and up to such class or standard as may be specified in the declaration.

(2) Every declaration under sub-section (1) shall—

(a) be published in the Official Gazette and in such other manner as the local authority may decide;

(b) be so made as to ensure that there is an interval of not less than one hundred and twenty days between the date of the publication of the declaration and the first day of the next academic year.

Grants-in-aid.

5. The State Government shall, in respect of every scheme sanctioned under sub-section (4) of section 3 or prepared under sub-section (1) of section 17, bear such part of the recurring and non-recurring cost of the scheme as it may from time to time determine.

Duty of local authority to prepare lists of children.

6. It shall be the duty of the local authority to cause to be prepared as early as possible after the publication of a declaration under section 4, and in such manner as may be prescribed, a list of children in any specified area; and the local authority shall cause the list to be revised at such intervals as may be prescribed.

Attendance authorities.

7. (1) The local authority may appoint as many persons as it thinks fit to be attendance authorities for the purposes of this Act, and may also appoint as many persons as it considers necessary to assist the attendance authorities in the discharge of their duties.

(2) In the exercise of any of the powers conferred by or under this Act, the attendance authority or any person appointed to assist the attendance authority may put such questions to any parent or require any parent to furnish such information, about his child as it or he considers necessary, and every such parent shall be bound to answer such questions or to furnish such information, as the case may be, to the best of his knowledge or belief.

Attendance authority to notify parent of his obligation towards his child.

8. It shall be the duty of the attendance authority to notify the parent of every child to whom the declaration under section 4 applies that he is under an obligation to cause the child to attend an approved school with effect from the beginning of the next academic year.

Responsibility of parent to cause his child to attend school.

9. It shall be the duty of the parent of every child to cause the child to attend an approved school unless there be a reasonable excuse for his non-attendance within the meaning of section 10.

Reasonable excuse for non-attendance.

10. For the purposes of this Act, any of the following circumstances shall be deemed to be a reasonable excuse for the non-attendance of a child at an approved school,—

(a) that there is no approved school within the prescribed distance from his residence;

(b) that the child is receiving instruction in some other manner which is declared to be satisfactory by the State Government or by an officer authorised by it in this behalf;

(c) that the child has already completed primary education up to the class or standard specified in the declaration under section 4;

(d) that the child suffers from a physical or mental defect which prevents him from attendance;

(e) that there is any other compelling circumstance which prevents the child from attending school, provided the same is certified as such by the attendance authority;

(f) such other circumstance as may be prescribed.

Special schools for physically or mentally deficient children.

11. If there is in existence a special school within the prescribed distance from the residence of a child who is suffering from a physical or mental defect, the attendance authority may, if it is satisfied that the child is not receiving any instruction in some other manner considered by it to be satisfactory, by order require the child to attend the special school; and it shall be the duty of the parent of such child to cause the child to attend the special school unless there be a reasonable excuse for the non-attendance of the child within the meaning of clause (e) of section 10.

Special provision for part-time education in certain cases.

12. (*1*) If the attendance authority is satisfied that a child, due to economic or other circumstances connected with the family to which the child belongs, is unable to attend an approved school in the manner required by or under this Act, it may, by order and subject to such conditions, if any, as it may think fit to impose, permit the child to attend any approved school established as a part-time institution or in which primary education is imparted on a part-time basis.

(*2*) Any parent who causes a child in respect of whom an order under sub-section (*1*) has been made to attend an approved school in the manner specified in the order shall be deemed to have complied with the provisions of this Act.

Attendance orders.

13. (*1*) Whenever the attendance authority has reason to believe that the parent of a child has failed to cause the child to attend an approved school and that there is no reasonable excuse for the non-attendance of the child within the meaning of section 10, it shall hold an inquiry in the prescribed manner.

(2) If as a result of the inquiry the attendance authority is satisfied that the child is liable to attend an approved school under this Act and that there is no reasonable excuse for his non-attendance within the meaning of section 10, it shall pass an attendance order in the prescribed form directing the parent to cause the child to attend the approved school with effect from the date specified in the order.

(3) An attendance order passed against a parent in respect of his child under this section shall, subject to the provisions of sub-section (6), remain in force for so long as this Act continues to apply to the child.

(4) If any parent against whom an attendance order has been passed in respect of his child under sub-section (2) transfers the custody of the child to another person during the period in which the attendance order is in force, such parent shall be bound to immediately inform the attendance authority in writing of such transfer.

(5) Where an attendance order has been passed against a parent in respect of his child under this section, such order shall have effect in relation to every other person to whom the custody of the child may be transferred during the period in which the attendance order is in force as it has effect in relation to the person against whom it is passed.

(6) A parent may at any time apply to the attendance authority for cancellation of an attendance order on the ground—

(i) that he is no longer the parent in respect of the child; or

(ii) that circumstances have arisen which provide a reasonable excuse for non-attendance;

and thereupon the attendance authority may, after holding an inquiry in the prescribed manner, cancel or modify the attendance order.

Children not to be employed so as to prevent them from attending school.

14. No person shall employ a child in a manner which shall prevent the child from attending an approved school.

Primary education to be free.

15. (1) No fee shall be levied in respect of any child for attending an approved school which is under the management of the State Government or a local authority.

(2) Where, in respect of any child an attendance order has been passed under section 13 and the only school which he can attend is an approved school under private management falling within sub-clause (ii) of clause (b) of section 2, the local authority shall take such steps as it may think fit for the purpose of ensuring that the primary education which the child is to receive is free.

Age of child how to be computed.

16. The age of a child for the purposes of this Act shall be computed in terms of years completed by the child on or before the first day of the academic year:

Provided that where the birthday of a child falls on a day not later than sixty days from the first day of the academic year, the birthday shall be deemed to fall on the first day of the academic year for the purpose of computing the age of the child.

Failure of local authority to prepare or implement scheme.

17. (*1*) If any local authority when called upon to submit a scheme under sub-section (*2*) of section 3 fails so to do, or, after a scheme has been sanctioned under sub-section (*4*) of section 3 fails to give effect to a scheme as so sanctioned, whether wholly or in part, the State Government may, after making such inquiry as it may consider necessary and after giving an opportunity to the local authority to be heard in the matter, appoint any person to prepare the scheme or to give effect to it, as the case may be, and may direct that such part of the expenses as that Government may determine shall be defrayed out of the funds belonging to the local authority.

(*2*) Where any such direction as is referred to in sub-section (*1*) is issued, any person who has for the time being the custody of any moneys on behalf of the local authority, either as a banker or in any other capacity, shall, notwithstanding anything contained in any law for the time being in force, be bound to comply with such direction.

Penalty for contravention of section 13.

18. (*1*) If any parent fails to comply with an attendance order passed under section 13, he shall be punishable with fine not exceeding two rupees, and, in the case of a continuing contravention, with an additional fine not exceeding fifty *naye paise* for every day during which such contravention continues after conviction for the first of such contraventions:

Provided that the amount of fine payable by any one person in respect of any child in any one year shall not exceed fifty rupees.

(*2*) If any person fails to furnish any information as required by sub-section (*4*) of section 13, he shall be punishable with fine which may extend to twenty-five rupees.

Penalty for contravention of section 14.

19. If any person contravenes the provisions of section 14, he shall be punishable with fine which may extend to twenty-five rupees and, in the case of a continuing contravention, with an additional fine not exceeding one rupee for every day during which such contravention continues after conviction for the first of such contraventions.

Courts competent to try offences.

20. (*1*) The courts competent to try offences under this Act shall be the following,—

(*a*) in rural areas to which the Delhi Panchayat Raj Act, 1954 extends, the Panchayati Adalat, constituted under section 50 of that Act, within whose jurisdiction the person committing the offence resides; Delhi Act III of 1955.

(*b*) in other areas, the court of a magistrate having jurisdiction.

(*2*) Any offence triable by the Panchayati Adalat shall be tried in the manner provided for the trial of criminal cases by the Delhi Panchayat Raj Act, 1954, and any offence triable by a magistrate shall be tried in a summary way. Delhi Act III of 1955.

Cognizance of offences.

21. No court shall take cognizance of an offence under this Act except on the complaint of an attendance authority or any other person authorised in this behalf by the local authority by general or special order.

Certain persons to be public servants.

22. The attendance authority, every person appointed to assist the attendance authority under sub-section (*1*) of section 7 and every person authorised to make complaints under section 21 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

23. No suit, prosecution or other legal proceeding shall lie against the Government or any authority or person in respect of anything which is in good faith done or intended to be done under this Act.

Delegation of powers.

24. (*1*) The State Government may, by notification in the Official Gazette and subject to such conditions, if any, as may be specified in the notification, authorise any officer or authority subordinate to it to exercise all or any of the powers conferred on the State Government by or under this Act.

(*2*) A local authority may, by general or special order and with the previous approval of the State Government, authorise any officer or authority subordinate to it to exercise all or any of the powers conferred on a local authority by or under this Act.

Power to make rules.

25. (*1*) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the class or standard education up to which shall be considered as primary education;

(*b*) the particulars to be contained in any scheme submitted under this Act, including particulars relating to the provision made or to be made in any area for the establishment of special schools or of schools imparting primary education on a part-time basis or for the supply of food or refreshments, books, writing materials, uniforms or other necessary amenities, to children while attending school;

(*c*) the manner in which lists of children may be prepared in any specified area under section 6, the intervals at which the lists shall be kept revised and persons with whose assistance such lists shall be prepared;

(*d*) the functions to be performed, and the manner in which such functions may be performed, by attendance authorities;

(*e*) the distance beyond which a child may not be compelled to attend an approved school;

(*f*) the circumstances which may be regarded as reasonable excuses for the non-attendance of a child within the meaning of section 10;

(*g*) the manner in which any inquiry under this Act may be held;

(*h*) the form in which an attendance order under this Act may be passed;

(*i*) the registers, statements and other information to be maintained or furnished by approved schools for the purposes of this Act;

(*j*) any other matter which has to be, or may be, prescribed under this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry

of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal of Punjab Primary Education Act.

26. On the date on which primary education becomes compulsory in any specified area, the Punjab Primary Education Act, 1940 as in force in the Union territory of Delhi shall stand repealed in such area. Pu jab Act XVIII of 1940.

R. C. S. SARKAR, Secy.

CORRIGENDUM

In the *Gazette of India Extraordinary*, Part II, Section 1, dated the 7th September, 1960, on page 411, line 34, *for* "the Indian Penal Code for any offence connected with any" *read* "proceedings under this Act.".

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